

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kevin Nicholas	Team: Team # 8	CCRB Case #: 200709264	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 06/28/2007 4:45 PM	Location of Incident: the corner of 38th Avenue and 21st Street	Precinct: 114	18 Mo. SOL 12/28/2008	EO SOL 12/28/2008	
Date/Time CV Reported Thu, 06/28/2007 8:21 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Thu, 06/28/2007 8:21 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Bryan Zuccaro	22037	931484	NARCBQN
2. DT3 Craig Rosenberg	06474	907213	NARCBQN

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Craig Rosenberg	Abuse: Det. Craig Rosenberg stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
B.POM Bryan Zuccaro	Abuse: PO Bryan Zuccaro stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
C.DT3 Craig Rosenberg	Abuse: Det. Craig Rosenberg searched § 87(2)(b)	
D.DT3 Craig Rosenberg	Abuse: Det. Craig Rosenberg searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
E.POM Bryan Zuccaro	Abuse: PO Bryan Zuccaro searched § 87(2)(b)	
F.POM Bryan Zuccaro	Abuse: PO Bryan Zuccaro frisked § 87(2)(b)	
G.POM Bryan Zuccaro	Abuse: PO Bryan Zuccaro searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
H.DT3 Craig Rosenberg	Abuse: Det. Craig Rosenberg refused to provide his shield number to § 87(2)(b)	

Synopsis

On June 28, 2007 at approximately 4:45 PM, § 87(2)(b) had just left work at the Queensbridge Houses and was driving his vehicle down 21st Street in Queens when he made a right turn onto 38th Avenue. Also present in his vehicle was his coworker, § 87(2)(b). Immediately after turning onto 38th Avenue, two officers traveling in an unmarked van, who were subsequently identified as Det. Craig Rosenberg and PO Bryan Zuccaro of Narcotics Borough Queens, pulled over § 87(2)(b)'s vehicle (**allegations A and B**). Det. Rosenberg approached the driver side and spoke to § 87(2)(b). Det. Rosenberg told § 87(2)(b) that he had been driving recklessly and asked for identification. § 87(2)(b) complied. Shortly thereafter, Det. Rosenberg asked § 87(2)(b) to step out and walk to the back of his vehicle. Det. Rosenberg then frisked and searched § 87(2)(b) (**allegation C**). PO Zuccaro had approached the passenger side and began speaking to § 87(2)(b) at this point. PO Zuccaro asked her to step out of the vehicle and she complied.

Around this time, Det. Rosenberg began searching the vehicle (**allegation D**). According to § 87(2)(b) PO Zuccaro removed § 87(2)(b) purse from her person and began searching it (**allegation E**). Shortly thereafter, PO Zuccaro began patting down § 87(2)(b) with the back of his hands (**allegation F**). He then instructed her to also stand at the back of the vehicle. PO Zuccaro then began to search the vehicle as well (**allegation G**). When the officers were done searching the vehicle, Det. Rosenberg gave § 87(2)(b) back his information and told them they could leave. § 87(2)(b) then asked for Det. Rosenberg's shield number. Det. Rosenberg immediately thereafter asked § 87(2)(b) for his identification back. Det. Rosenberg proceeded to write § 87(2)(b) and § 87(2)(b) information down on a yellow envelope. Det. Rosenberg never provided his shield number (**allegation H**).

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b) is a 5'10", 185-pound, § 87(2)(b)-old Hispanic male. § 87(2)(b) § 87(2)(b) § 87(2)(b). § 87(2)(b) phoned in this complaint to the call processing system on June 28, 2007 at 8:21 PM. He provided an initial phone statement on July 6, 2007 (encl. 9 A), a second phone statement on July 9, 2007 (encl. 10 A), and appeared at the CCRB for an interview on July 12, 2007 (encl. 11 A-F).

On June 28, 2007 at approximately 4:30 PM, § 87(2)(b) and § 87(2)(b) left work and were traveling down 21st Street in § 87(2)(b)'s vehicle, a grey 4-door Ford Taurus with license plate number § 87(2)(b). About 10-15 minutes later, § 87(2)(b) made a right turn onto 38th Avenue into bumper to bumper traffic when he was stopped by a grey, two-door cargo van (**allegations A and B**), which had cut him off on the left-hand side. In his initial phone statement, § 87(2)(b) specified that it was gold-colored and added that it didn't have a license plate. The area where § 87(2)(b) pulled over was a commercial area – there was a car repair shop and another store in the vicinity.

Two plainclothes white male officers approached the vehicle. The taller and older-looking officer, subsequently identified as Det. Craig Rosenberg of Narcotics Borough Queens, asked § 87(2)(b) for his identification. § 87(2)(b)

§ 87(2)(b) The officers told § 87(2)(b) that he had been driving recklessly but did not specify how. § 87(2)(b) pointed out to the officers that he had been just traveling in bumper to bumper traffic and therefore could not be driving recklessly. Det.

Rosenberg asked § 87(2)(b) where he was coming from and § 87(2)(b) said that he had just left work. Det. Rosenberg asked § 87(2)(b) where he worked and § 87(2)(b) explained that he worked in Queensbridge.

Det. Rosenberg asked § 87(2)(b) if he was aware that his brake lights weren't working – § 87(2)(b) said no. In his phone statement, § 87(2)(b) said that an officer asked for the vehicle's documentation, at which point § 87(2)(b) provided his license and insurance card § 87(2)(b) added that his son had recently been driving the vehicle so he had some trouble at first finding the documentation). Also in his phone statement, § 87(2)(b) added that he told the officers that the vehicle was registered and that the officers could verify it by calling it in over the radio – Det. Rosenberg had replied, "I'm not calling anything in."

Det. Rosenberg told § 87(2)(b) to get out of the car and put his "hands behind the car." In his phone statement, § 87(2)(b) added that Det. Rosenberg made him get "on the floor" – § 87(2)(b) never elaborated on what exactly he meant by this in his phone statement and then never mentioned any such thing in his interview. Det. Rosenberg first searched (**allegation C**) § 87(2)(b) by the front of his car. Det. Rosenberg instructed § 87(2)(b) to pull his shirt up (**allegation C**). Det. Rosenberg also put his hands in § 87(2)(b)'s pockets (**allegation C**). Det. Rosenberg asked § 87(2)(b) if he had any sharp objects. § 87(2)(b) replied no. Det. Rosenberg turned § 87(2)(b) around. Det. Rosenberg did not remove any items from § 87(2)(b). Det. Rosenberg told § 87(2)(b) to go to the back of the car and put his hands on the trunk. § 87(2)(b) complied. Det. Rosenberg then went to the front and began searching the car, looking under the driver's seat (**allegation D**). In his phone statement, § 87(2)(b) added that Det. Rosenberg searched some clothing that § 87(2)(b) had lying inside his car and added that at this point he told Det. Rosenberg to not search his car. Det. Rosenberg never attempted to test § 87(2)(b)'s brake lights.

The shorter, stockier officer who appeared bald, who was subsequently identified as PO Bryan Zuccaro of Narcotics Borough Queens, told § 87(2)(b) to exit the car. § 87(2)(b) complied. § 87(2)(b) showed her identification too. At this time, PO Zuccaro asked § 87(2)(b) where did he "pick § 87(2)(b) up" – § 87(2)(b) believed PO Zuccaro was implying that § 87(2)(b) was a prostitute. § 87(2)(b) and § 87(2)(b) explained that they are coworkers and that they live together. PO Zuccaro brought § 87(2)(b) to the back of the car. § 87(2)(b) showed PO Zuccaro that she did not have anything in her pockets. Nevertheless, PO Zuccaro began searching § 87(2)(b) "with the palm of his hand" (**allegation E**). In his phone statement, § 87(2)(b) specified that PO Zuccaro searched § 87(2)(b) pockets (**allegation E**).

PO Zuccaro then went to the front passenger side and began searching the vehicle as well (**allegation G**). The officers looked in the glove compartment – in his phone statement, § 87(2)(b) specified that it was PO Zuccaro who searched the glove compartment. The officers never removed anything from § 87(2)(b)'s vehicle. PO Zuccaro eventually returned § 87(2)(b)'s documents and said that he could leave. § 87(2)(b) asked Det. Rosenberg for his shield number and Det. Rosenberg replied that he needed § 87(2)(b)'s identification back. § 87(2)(b) gave Det. Rosenberg his license and Det. Rosenberg then began writing § 87(2)(b)'s information down on a yellow envelope. Det. Rosenberg asked § 87(2)(b) and § 87(2)(b) about their neighborhoods. § 87(2)(b) asked PO Zuccaro for his shield number and PO Zuccaro responded, "22037." Det. Rosenberg never provided his shield number at any point in response to § 87(2)(b)'s request (**allegation H**). In his phone statement, § 87(2)(b) said that he also asked the officers for their names, but in his interview, § 87(2)(b) said that he did not ask the officers for their names. § 87(2)(b) and § 87(2)(b) were stopped for approximately thirty minutes. § 87(2)(b) was never issued a summons or issued any paperwork regarding the stop. The officers never provided any reason for not issuing § 87(2)(b) a summons when they had previously cited so many reasons for pulling him over. There were some people in the area who witnessed the incident.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b)

Results of Investigation

Victim Statements – § 87(2)(b)

§ 87(2)(b) a 5'11", 195-pound, § 87(2)(b) old white Hispanic female with brown hair, § 87(2)(b) provided an initial phone statement on July 10, 2007 (encl. 12 A) and was interviewed at the CCRB on July 12, 2007 (encl. 13 A-F). § 87(2)(g)

On June 28, 2007 at approximately 4:25 PM, § 87(2)(b) and § 87(2)(b) left their place of employment – § 87(2)(b). They began driving down 21st Street in § 87(2)(b)'s vehicle (4-door silver Ford Taurus) and when they made a left onto 38th Avenue they saw a white, unmarked minivan with emergency lights flashing (no siren) pull alongside them. Det. Rosenberg was the driver and PO Zuccaro was the passenger. PO Zuccaro told § 87(2)(b) through the window to pull to the side of the road. § 87(2)(b) immediately complied (**allegations A and B**).

The officers approached § 87(2)(b)'s vehicle with their badges displayed. Det. Rosenberg approached the driver side and told § 87(2)(b) that his vehicle had several VTL violations, including that his taillight was not working and the passenger side view mirror was missing (this had been vandalized in a previous incident). Det. Rosenberg asked § 87(2)(b) for his license and paperwork and § 87(2)(b) complied. § 87(2)(b) explained that he was § 87(2)(b) and Det. Rosenberg replied, "You're a § 87(2)(b) and you don't know there's been a shooting around here." Det. Rosenberg said that the officers had been investigating this shooting.

Det. Rosenberg told § 87(2)(b) to exit and had him walk to the back of the vehicle. Det. Rosenberg frisked § 87(2)(b) and searched him (**allegation C**). Det. Rosenberg searched § 87(2)(b)'s pockets and lifted up § 87(2)(b)'s shirt (**allegation C**).

PO Zuccaro approached the passenger side and began asking § 87(2)(b) how she was – § 87(2)(b) voluntarily provided her ID without PO Zuccaro asking for it. PO Zuccaro then mentioned to § 87(2)(b) that he used to work in the area where she lived (Ridgewood) and had been shot at one time near her area (within the confines of the 83rd Precinct). § 87(2)(b)

PO Zuccaro tried to open § 87(2)(b) door and asked § 87(2)(b) to step out of the car. § 87(2)(b) opened her door and stepped out. § 87(2)(b) purse was worn across her body at the time and PO Zuccaro removed her purse and searched it (**allegation E**). PO Zuccaro opened § 87(2)(b) wallet and searched it (**allegation E**). PO Zuccaro did not remove any items. PO Zuccaro asked § 87(2)(b) if she had any sharp objects in her pockets. § 87(2)(b) "didn't think that [PO Zuccaro] should be touching [her]" so she patted down her front pockets herself and pulled out her back pockets to illustrate that there was nothing in them. PO Zuccaro then told § 87(2)(b) that he was going to touch her "with the back of [his] hands just to make sure." § 87(2)(b) said that she didn't think that was necessary but PO Zuccaro proceeded to "rub the back" of her pockets and touched her front pockets with the back of his hands (**allegation F**). PO Zuccaro never actually put his hands in § 87(2)(b) pockets.

PO Zuccaro told § 87(2)(b) to stand at the back of the car with § 87(2)(b). PO Zuccaro told § 87(2)(b) to give Det. Rosenberg her identification and she complied, providing her New York State ID and § 87(2)(b) ID. Det. Rosenberg continued speaking with § 87(2)(b) about his insurance papers. Around this time, § 87(2)(b) asked the officers, "Can I have your badge numbers?" Det. Rosenberg hid his shield inside his vest (**allegation H**). PO Zuccaro verbally provided his shield number to § 87(2)(b) possibly "22237".

PO Zuccaro began searching the front of § 87(2)(b)'s vehicle – checking under the seats and in the glove compartment (**allegation G**). The officers never searched the trunk. At an unspecified point, Det. Rosenberg went into the vehicle (**allegation D**) and began pressing on something and asking § 87(2)(b) if the taillight worked (the taillight did not in fact work). § 87(2)(b) did not notice if Det. Rosenberg actually searched § 87(2)(b)'s vehicle because she “wasn’t really paying attention to” Det. Rosenberg.

§ 87(2)(b) asked Det. Rosenberg if he was going to give him a ticket or write any paperwork – § 87(2)(b) pointed out that Det. Rosenberg had to write something down as he had stopped them. Det. Rosenberg went back inside the police van and retrieved a yellow envelope. Det. Rosenberg then returned and wrote § 87(2)(b) and § 87(2)(b)'s names down on the yellow envelope and told them that they could leave and would not be issued anything.

§ 87(2)(b) said that they were stopped in front of an auto repair shop (she could not remember the name). There were three uniformed southwest Asian males sitting in front of the shop at the time who witnessed the incident.

Field Visit to Incident Location

On August 3, 2007, the undersigned went to § 87(2)(b). At this location, both streets have two-way traffic and were very busy. The undersigned went into the location and spoke to § 87(2)(b), in the office. § 87(2)(b) seemed immediately familiar with the incident but said that he did not witness it. He said that he had heard that a few employees at the shop had witnessed some time prior a white unmarked police van pull over a male and female traveling in a white 1997 Ford Taurus directly in front of the store.

§ 87(2)(b) then brought the undersigned over to two southwest Asian male uniformed employees, Employee2 and Employee3, and spoke to them about the incident. Employee2 and Employee3 acknowledged that they had witnessed the incident. Employee2 said that two plainclothes officers in an unmarked white van pulled over a white Ford Taurus with a male and female inside. The officers then made both civilians exit and searched both of their pockets. The officers then went inside the Ford Taurus - Employee2 did not actually see where the officers searched inside the car. Employee2 and Employee3 then looked at pictures of § 87(2)(b) and § 87(2)(b) and confirmed that it was the same two individuals stopped.

Upon further questioning, however, Employee2 and Employee3 denied that they witnessed anything substantial. Both stated that the police always have valid reasons for stopping people. Employee3 added that § 87(2)(b) had a bad attitude and was making a scene and even further stated that if he was ever brought to court regarding this incident that he would testify that the officers did nothing wrong. Employee2 refused to provide his name and Employee 3 provided his name only as § 87(2)(b).

The undersigned then again spoke to Employee1 who said that the manager at the shop is named § 87(2)(b) and said that the undersigned should contact him at the number provided on the business card (encl. 14 B). § 87(2)(b) was not present at the shop on date of the field visit. The undersigned also left his business card with Employee1 and asked him to pass on this information to § 87(2)(b).

Additional Attempts to Contact Witnesses at New York Auto Repair

On August 3, 2007, a contact letter was mailed to the shop manager, § 87(2)(b). On February 4, 2008, the undersigned called § 87(2)(b) and spoke to § 87(2)(b). § 87(2)(b) claimed that he had not started working at the shop until October and claimed to have no knowledge of this incident. He confirmed that § 87(2)(b) is a manager at the store but said that the undersigned would have to call at a different time speak to § 87(2)(b). A follow-up call was made on February 5, 2008 and the undersigned again spoke to § 87(2)(b). § 87(2)(b) provide confusing and contradicting information regarding § 87(2)(b)'s schedule but said that he would definitely be at

work that day at 7:30 PM. A phone call placed to that number on the same day at 7:50 PM rang continuously with no answer.

Officer Statements – PO Bryan Zuccaro

PO Bryan Zuccaro, a 5'8", 190-pound, § 87(2)(b)-old white male with shaved hair (he did not mark his hair color), was interviewed at the CCRB on September 5, 2007 (encl. 16 A-D). On June 28, 2007, he had a 12:33 PM by 9:00 PM tour and was assigned to the prisoner van with Det. Rosenberg. They were traveling in RMP #§ 87(2) a grey Ford van. He was in plainclothes (street attire) – he could not remember if either he or Det. Rosenberg were wearing sunglasses that day but stated that he doesn't typically wear sunglasses. His memo book entries (encl. 15 A-B) contain no mention of the incident.

On June 28, 2007 at approximately 4:45 PM, PO Zuccaro and Det. Rosenberg were driving on 21st Street when they observed a car directly in front of them try to change lanes and subsequently cut off a mini yellow school bus carrying children, almost causing the bus to come to a complete stop. The bus swerved slightly to the right in response towards nearby parked cars. The bus "locked up so four kids in the back went flying forward." At the time that this happened, there was moderate traffic on the street. After the car cut off the bus, it swerved back and then went around the bus, making a right onto 38th Avenue. PO Zuccaro could not remember where exactly this happened but said that it was near a traffic light, not a stop sign. PO Zuccaro could not remember § 87(2)(b)'s vehicle going through a stop sign at any point.

The officers then pulled the vehicle over on 38th Avenue using their dashboard emergency lights. The vehicle pulled over immediately. PO Zuccaro believed that there was a tire shop in the vicinity. PO Zuccaro could not recall the traffic situation on 38th Avenue at this time.

The vehicle had numerous observable violations: it was being driven erratically, it had two broken taillights, and it had a lot of body damage. The damage included a broken headlight, a missing side view mirror (PO Zuccaro could not remember which side) and a missing rearview mirror (on the inside). § 87(2)(b) and § 87(2)(b) were both not wearing seatbelts. Later in his interview, PO Zuccaro stated that he first noticed all these violations at the time that the car cut off the bus. When PO Zuccaro was asked how he could make the determination that the occupants were not wearing seatbelts when he the police vehicle was stationed behind them, he replied, "You can see through a window on a clear day." PO Zuccaro then added that the officers stopped the vehicle because it "also matched the description earlier in the evening of a robbery in the area." PO Zuccaro could not recall any of the details of the robbery pattern, such as vehicle description or perpetrator description. At the time of his interview, PO Zuccaro said that he could not really remember what § 87(2)(b)'s vehicle looked like besides that "it was a pretty beat up vehicle."

Det. Rosenberg approached the driver side and PO Zuccaro approached the passenger side. PO Zuccaro could not hear any of the conversation between § 87(2)(b) and Det. Rosenberg at this time. Det. Rosenberg spoke briefly to § 87(2)(b) who had been apparently unable to produce a valid license, registration or insurance. During this time, PO Zuccaro stood there and made sure that no one moved their hands and that there were no visible weapons. When asked if he had any conversation with § 87(2)(b) at this time, PO Zuccaro said that he "possibly spoke to her briefly." Both § 87(2)(b) and § 87(2)(b) "were both a little agitated at the beginning." § 87(2)(b) was upset that the officers had stopped him and not the bus. When PO Zuccaro was asked what about § 87(2)(b) made her appear agitated, he said it was her demeanor. When asked what specifically about her demeanor, he replied, "Her body expressions. Her face." When asked if she said anything that indicated she was upset, PO Zuccaro said no.

Around this time, Det. Rosenberg gave PO Zuccaro a look indicating "like he was taking § 87(2)(b) out" and PO Zuccaro said, "Fine." At that point, Det. Rosenberg asked § 87(2)(b) to exit the car and instructed him to go to the back of the vehicle. While standing at the back of the car, § 87(2)(b) went through his wallet and was able to finally produce a license. § 87(2)(b) lived in Bushwick and began claiming that he knew numerous officers that PO Zuccaro knew. It was "a nice conversation and § 87(2)(b) seemed like a pretty upstanding gentleman."

At one point, § 87(2)(b) exited the car and stated that she worked § 87(2)(b). PO Zuccaro never instructed § 87(2)(b) to exit the vehicle and could not remember where he was standing at the time that she exited. § 87(2)(f)

When PO Zuccaro was asked in his interview if the officers ever actually identified themselves as narcotics officers, he responded that § 87(2)(b) probably asked and that he probably told her they were from narcotics.

At some point, PO Zuccaro asked § 87(2)(b) for her identification and she opened up her bag to show that there was nothing inside it. PO Zuccaro said that this was not what he asked for and again asked for her identification. § 87(2)(b) complied. After speaking “for a good five minutes on the side of the street,” the officers gave § 87(2)(b) a warning and allowed him to go.

PO Zuccaro could not remember for certain if § 87(2)(b) ever asked for his shield number. He stated that he normally provides this information when requested. PO Zuccaro did not know if § 87(2)(b) ever asked Det. Rosenberg for his shield number.

§ 87(2)(b) Due to the fact that the conversation was “pleasant”, the officers did not issue summonses as a professional courtesy – “it warranted a warning.”

When PO Zuccaro was asked if he ever went inside § 87(2)(b)'s vehicle, he replied, “I don’t think so... maybe to look at the VIN number.” He said he wasn’t sure. He said that he likely didn’t “climb into” the vehicle but might have simply opened the driver side door and made sure that the VIN number, license plate and sticker matched up. PO Zuccaro never saw Det. Rosenberg go inside § 87(2)(b)'s vehicle. Neither officer looked into the glove compartment at any point. When asked if he looked anywhere else in the car, PO Zuccaro responded that he simply looked for any visible weapons by scanning the whole car through the open windows while standing outside by the passenger side. When PO Zuccaro was asked if the officers actually tested the taillights out to see if they worked, he said he didn’t know.

PO Zuccaro never observed Det. Rosenberg frisk § 87(2)(b) or search § 87(2)(b)'s pockets.

§ 87(2)(b) was never frisked or searched at any point. PO Zuccaro never searched her pocketbook or her pockets at any point.

At no point did PO Zuccaro ask § 87(2)(b) where he picked up § 87(2)(b). There was never any suspicion that § 87(2)(b) was a prostitute. PO Zuccaro did not know if the officers ever stated that they were investigating a recent shooting.

PO Zuccaro was shown pictures of § 87(2)(b) and § 87(2)(b) and asked if they looked like the individuals the officers had stopped. He responded, “Yeah, I guess.”

Towards the end of his interview, PO Zuccaro was shown a copy of § 87(2)(b) UF-250. When asked what the ‘failure to stop at a stop sign’ cited on the UF-250 was referring to, he replied, “Not stopping at a stop sign.” When it was pointed out that he had just stated that he didn’t remember there being a stop sign, he replied, “Well, I was also in the passenger seat. I was in the prisoner van. I was dealing with prisoners back and forth.” When PO Zuccaro was asked when the UF-250s were prepared by Det. Rosenberg, he said that they were filled out on the same date and time of the incident. PO Zuccaro never observed Det. Rosenberg write down any information for § 87(2)(b) and § 87(2)(b) on a yellow envelope. When it was pointed out to PO Zuccaro that both UF-250s seemed to indicate that both persons stopped were black males, he said, “It means it’s an error.” When PO Zuccaro was asked at what point UF-250 serial numbers are generated, he said, “I have no idea. I don’t work in the admin staff.” PO Zuccaro and his representative

both stated that the administration staff is responsible for generating those numbers and that it could have actually been the administration staff that wrote the numbers down.

Officer Statements – Det. Craig Rosenberg

The electronic printout of the UF-250s (encl. 20 A-B and 21 A-B) originally completed by Det. Rosenberg were entered into the NYPD computer system on August 7, 2007 by a Detective Oates.

Det. Craig Rosenberg, a 5'8", 200-pound, § 87(2)(b) -old white male with blond hair (he had a mustache at the time of his CCRB interview), was interviewed at the CCRB on December 6, 2007 (encl. 22 A-D). The investigation identified Det. Rosenberg from the tactical plan, which indicated that he was working with PO Zuccaro on the day of the incident. On June 28, 2007, he had an 11:00 AM by 7:00 PM tour. He was the operator of the unmarked prisoner van and was working with PO Zuccaro. Det. Rosenberg recorded his assignment as buy and bust. He was in plainclothes street attire. PO Zuccaro could not recall the make, model, description or RMP number of the vehicle that he was operating that day. Initially, Det. Rosenberg said that his memo book entries (encl. 17 A-B) did not contain any mention of this incident – “Except for the one. I don’t know if you count the side.” His representative said there were no entries and the interview then commenced. At the end of the interview, he was asked about an entry written vertically in the margin which read, “250s 1815.” Det. Rosenberg said that this entry “is most likely” related to this incident.

The handwritten UF-250 (§ 87(2)(b)) that Det. Rosenberg prepared for § 87(2)(b) (encl. 18 A), indicates that Det. Rosenberg stopped § 87(2)(b) at 6:15 PM at the corner of “37 + 22.” § 87(2)(b) was suspected of ‘reckless driving’ and ‘failure to stop at stop sign’. § 87(2)(b) was identified as a black male. It indicates that § 87(2)(b) was never frisked or searched. Next to ‘demeanor of person after being stopped’, Det. Rosenberg wrote ‘angry’. Det. Rosenberg recorded that he was in plainclothes and said that he therefore identified himself by ‘shield’ and ‘verbal’.

The handwritten UF-250 (§ 87(2)(b)) that Det. Rosenberg prepared for § 87(2)(b) (encl. 19 A), has almost the exact same information as the one prepared for § 87(2)(b). It also stated that § 87(2)(b) was stopped for ‘reckless driving’ and ‘failure to stop at stop sign’. Det. Rosenberg also provided her ethnicity as black and recorded her height and weight as 5’5” and 160 lbs. Det. Rosenberg indicated that she was never frisked or searched and recorded her demeanor as ‘angry’.

On June 28, 2007 at approximately 4:45 PM, Det. Rosenberg and PO Zuccaro observed a male driving a vehicle erratically. Det. Rosenberg could not recall where he made this observation. The observed vehicle was traveling at a high velocity and went through a stop sign; it then veered off and almost hit a parked vehicle. Det. Rosenberg could not describe whatsoever the vehicle that § 87(2)(b) almost hit. He could not recall whether it was a sedan, SUV or a bus. When Det. Rosenberg was asked if he remembered a yellow school bus being in any way involved in this incident, he said no.

At that point, the officers pulled the vehicle over in the vicinity of the observed moving violation in order to establish ownership of the vehicle and to see if the vehicle occupants were intoxicated. Det. Rosenberg could not remember where the officers pulled over the vehicle. He could not remember whether it was on the same street of the observed infraction or if it was on another street. He could not recall whether the stop location was near an auto repair shop. Much later in his interview, Det. Rosenberg was shown field visit photo 3 and asked if the area in the picture looked like the incident location. He said that nothing in the incident particularly stood out as being related to this incident.

Det. Rosenberg approached the driver side of the vehicle and PO Zuccaro approached the passenger side. Det. Rosenberg observed two occupants inside the vehicle, § 87(2)(b) and § 87(2)(b). When Det. Rosenberg was asked what the vehicle occupants looked like, he was unable to describe them. Much later in his interview, when shown pictures of § 87(2)(b) and § 87(2)(b) Det. Rosenberg did not recognize them and said that they could have been the individuals he interacted with but he was not certain.

Det. Rosenberg could not recall any specific problems with § 87(2)(b)'s vehicle but recalled that the vehicle was "very disheveled." Det. Rosenberg said that if there were any violations with the vehicle, he would have recorded it.

Upon approach, Det. Rosenberg spoke to the operator of the vehicle, § 87(2)(b) and identified himself and provided his shield. Additionally, Det. Rosenberg provided his rank and "ID card" to the vehicle occupants. Det. Rosenberg later volunteered that if the occupants requested any of his information, he provided it to them. Det. Rosenberg told § 87(2)(b) that he needed his license and registration and told him that he had gone through a stop sign. § 87(2)(b) and § 87(2)(b) became very belligerent. They were "pissed off" that they were stopped. When Det. Rosenberg was asked in his interview what he meant by "belligerent", he said that "they questioned why they were pulled over." § 87(2)(b) said that he didn't deserve this and asked what he had done. When Det. Rosenberg was later asked how the occupants were "arguing", he replied, "I never said they were arguing. I said they were belligerent towards me." When asked to clarify how the occupants appeared "pissed off", Det. Rosenberg responded, "By how they were communicating to me." When asked to elaborate, Det. Rosenberg said, "They questioned why. Which is their right – to question. But they were angry. Their body movements. They were yelling why they were being stopped."

§ 87(2)(b) complied with Det. Rosenberg's information request. Det. Rosenberg could not recall there being any issues with § 87(2)(b) providing this information or any significant delays on § 87(2)(b)'s part. § 87(2)(b)

At this time, PO Zuccaro "was safeguarding the other side of the car." Det. Rosenberg did not know whether PO Zuccaro ever talked to § 87(2)(b)

The officers identified § 87(2)(b) via his license, registration and insurance card. The information all checked out. There were no problems. At this point, because § 87(2)(b) was so belligerent, Det. Rosenberg recorded his name so that he could fill out UF-250s. Det. Rosenberg did not conduct a warrant check. Det. Rosenberg stated that the officers did not have a computer in their vehicle to conduct a warrant check. Det. Rosenberg recorded § 87(2)(b)'s name and filled out UF-250s. Det. Rosenberg could not recall writing any of their information down on a yellow envelope. Det. Rosenberg then gave § 87(2)(b) his information back and § 87(2)(b) seemed to calm down at this point. § 87(2)(b) seemed to think that he had been about to get a summons. At that point, the officers let the vehicle occupants go. They drove away and the officers drove away. The entire interaction lasted about 5 minutes.

Det. Rosenberg never issued any summonses. Det. Rosenberg explained that he decided at his discretion not to prepare a summons "since § 87(2)(b) was so belligerent § 87(2)(b) Det. Rosenberg said that § 87(2)(b) continuously repeated to him that he was a § 87(2)(b) and "he was trying to use that as a force field to prevent the summons. I guess it worked." When Det. Rosenberg was asked in his interview if § 87(2)(b) did anything else besides the moving violations that would constitute a summons-able offense, Det. Rosenberg said no.

Det. Rosenberg and Det. Zuccaro never ordered § 87(2)(b) or § 87(2)(b) out of the vehicle at any point. § 87(2)(b) and § 87(2)(b) never exited their vehicle at any point and were never located outside their vehicle at any point during the interaction.

Det. Rosenberg never frisked or searched § 87(2)(b) PO Zuccaro never frisked § 87(2)(b) Det. Rosenberg was unaware whether any bags belonging to the occupants were searched at any point. When asked if § 87(2)(b) ever offered her bag to the officers for them to search it, Det. Rosenberg said that he didn't know because he was interacting with the driver. When Det. Rosenberg was asked if he ever had any suspicion that § 87(2)(b) or § 87(2)(b) had contraband, he responded, "If I would have [seen] contraband I would have placed them under arrest." Det. Rosenberg never questioned them or voiced any suspicion at any point regarding contraband.

At no point did Det. Rosenberg ever go inside § 87(2)(b)'s vehicle. Det. Rosenberg was not aware of PO Zuccaro ever going inside § 87(2)(b)'s vehicle. He later stated that the officers never broke the plane of

the vehicle at any point. At no point did the officers have any suspicion that there was any contraband inside § 87(2)(b)'s vehicle.

When Det. Rosenberg was asked if § 87(2)(b) ever asked for his shield number, he said that if he did, he would have given it to him. Det. Rosenberg did not know whether § 87(2)(b) ever asked PO Zuccaro for his name or shield number.

When asked if § 87(2)(b) identification was ever collected, Det. Rosenberg that he did not engage her and therefore was not sure, but her identification must have been if he had prepared a UF-250 for her. When Det. Rosenberg was asked why he prepared a UF-250 for § 87(2)(b) he replied, "Only because they were very belligerent and I wanted to record the stop." When Det. Rosenberg was asked at what point he actually filled out the UF-250s, he replied, "Whatever time's on there." When asked if he filled them out at the incident scene, he responded, "Most likely."

Det. Rosenberg could not recall § 87(2)(b) and § 87(2)(b) ever stating where they had been coming from.

Det. Rosenberg never noticed any witnesses to the incident. He was not aware of any uniformed individuals at the incident location who witnessed the incident.

The officers never had any suspicion that the occupants were engaged in prostitution and never asked any questions to that effect. Det. Rosenberg never questioned the occupants about any recent shootings. Det. Rosenberg never said anything to the vehicle occupants regarding a suspected robbery pattern.

§ 87(2)(f)

In order to determine when Det. Rosenberg filled out the handwritten UF-250s, he was asked several questions towards the end of his interview and was shown the handwritten UF-250s that he had prepared. As mentioned above, Det. Rosenberg stated that he filled out the handwritten UF-250s at the time of the incident. Det. Rosenberg stated that he provided copies of the UF-250s to the precinct on the same day of the incident. He was not aware whether they ever got "kicked back." When Det. Rosenberg was asked if he was the person who wrote the serial numbers on the UF-250s, he said no. The numbers were not in his handwriting – the serial numbers were the only thing that he did not write. When it was pointed out to Det. Rosenberg that the time of the vehicle stop was recorded as "1815", he said that he was not sure of the exact incident time at this point. When asked about the incident location that he provided, "37 and 22", Det. Rosenberg specified that this location was referring to "22 Street and 37 Avenue." When he was then asked if the incident location as presented on the allegation sheet was therefore inaccurate, he said he was not exactly sure but said that the location on the UF-250s was probably more accurate.

Det. Rosenberg was informed that a request sent for the UF-250s over the summer later came back as negative. Det. Rosenberg said that he did not know how exactly the system works in terms of electronically filing the forms but added that the UF-250s had actually been returned to him at his base from the precinct. Det. Rosenberg had no idea why the forms had been returned to him and had absolutely no idea at what point they were returned to him.

Stop and Frisk Logs

The stop and frisk log from July 18, 2007 (encl. 23 A) contains no mention of either § 87(2)(b) or § 87(2)(b). The stop and frisk log from November 5, 2007 (encl. 24 A), however, did have entries for § 87(2)(b) and § 87(2)(b). It should be noted that the serial numbers for the UF-250s prepared by § 87(2)(b) and § 87(2)(b) (6320 and 6322) are noticeably higher than all the other reports listed for that particular day (range of 5288 – 5655).

Handwritten Stop and Frisk Report Request

The request for the handwritten UF-250 from the officers' command (encl. 33 F) was sent on July 23, 2007, which was eleven days before Det. Oates entered the UF-250s prepared by Det. Rosenberg into the computer system.

Tactical Plan for Narcotics Borough Queens Module 114/108

The tactical plan (encl. 25 A) indicates that Det. Rosenberg and PO Zuccaro were assigned to the prisoner van, a grey Ford with RMP #§ 87(2)(b). The team's first setup location for that day was the vicinity of Queensbridge Houses in regards to a recent shooting. The weather was marked as clear for the day.

Roll Call for Narcotics Borough Queens Module 114/108

The roll call (encl. 26 A) indicates that Det. Rosenberg and PO Zuccaro were both assigned to buy and bust operations.

Movement Sheet for Narcotics Borough Queens

The movement sheet (encl. 27 A) indicates that Det. Rosenberg and PO Zuccaro left the command at 1:00 PM (the incident happened at 4:45 PM) and were heading to the vicinity of the 114th and 108th Precincts in regards to a buy and bust operation. They were traveling in RMP #§ 87(2)(b).

§ 87(2)(b)'s DMV History

§ 87(2)(b)'s DMV history (encl. 30 A-B) does not list any violations.

DMV History for License Plate § 87(2)(b)

The DMV history for § 87(2)(b)'s vehicle (encl. 31 A-B) indicates that it was a grey 1993 Ford that was registered in his name.

Notice of Claim Check

A request was sent to the NYC Comptroller's Office on February 5, 2008 for any notice of claim filed for either § 87(2)(b) or § 87(2)(b) in regards to this incident. The Comptroller's Office sent back a letter on the same day stating that they did not have any notice of claim on record (encl. 34 A).

Civilian Criminal Conviction History

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

CCRB History of Allegations Which Resulted in the Imposition of Discipline

Both Det. Rosenberg and PO Zuccaro have never had any allegations substantiated against them at the CCRB (encl. 4 A-B and 5 A).

Conclusions and Recommendations

Officer Identification

In his interview, § 87(2)(b) provided PO Zuccaro's shield number and said that he was the officer that mainly interacted with § 87(2)(b). Det. Rosenberg was subsequently identified from the tactical plan which indicated that he was PO Zuccaro's partner. The physical descriptions of the officers provided by the civilians accurately correspond to each officer.

§ 87(2)(g)

[REDACTED]

Undisputed Facts

It is undisputed that Det. Rosenberg and PO Zuccaro stopped § 87(2)(b)'s vehicle. It is undisputed that § 87(2)(b)'s taillight did not work. Det. Rosenberg approached the driver side and spoke to § 87(2)(b). PO Zuccaro approached the passenger side. Det. Rosenberg requested § 87(2)(b)'s identification and § 87(2)(b) complied. It is undisputed that the officers mentioned to § 87(2)(b) that the vehicle's taillight wasn't working. § 87(2)(b)

[REDACTED]

Some time thereafter, the officers let § 87(2)(b) and § 87(2)(b) leave without issuing any summonses.

Disputed Facts

§ 87(2)(g)

[REDACTED]

Assessment of Evidence

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

Det. Rosenberg said that § 87(2)(b) went through a stop sign while PO Zuccaro said that § 87(2)(b) cut off a yellow school bus. Meanwhile, there was no stop sign at this intersection and Det. Rosenberg denied that a school bus was involved. PO Zuccaro described § 87(2)(b) as endangering the lives of children and then later as complaining that the officers hadn't pulled over the school bus, yet towards the end of his interview, PO Zuccaro characterized § 87(2)(b) as "an upstanding gentleman." PO Zuccaro § 87(2)(g) claiming that § 87(2)(b) had a broken headlight and a missing rearview mirror, that both occupants weren't wearing seatbelts, and that the vehicle fit the description of a vehicle involved in a robbery pattern. § 87(2)(g)

[REDACTED]

§ 87(2)(b) and § 87(2)(b) were consistent that Det. Rosenberg asked § 87(2)(b) to step out of the vehicle and this was further corroborated by PO Zuccaro. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) and § 87(2)(b) were consistent that Det. Rosenberg searched § 87(2)(b)'s pockets. The auto workers corroborated this. However, while § 87(2)(b) said that Det. Rosenberg instructed him to lift up his shirt, § 87(2)(b) said that Det. Rosenberg lifted up § 87(2)(b)'s shirt himself. § 87(2)(g)

§ 87(2)(b) said that he was searched by the front of the vehicle and then led to the back of the vehicle, while § 87(2)(b) said that Det. Rosenberg searched him by the back of the vehicle. Both officers denied that Det. Rosenberg ever searched § 87(2)(b). § 87(2)(g)

§ 87(2)(b) said that Det. Rosenberg went inside the vehicle and searched under the driver's seat. The auto workers said that both officers entered the vehicle, § 87(2)(g). § 87(2)(b) on the other hand, said that Det. Rosenberg went inside the vehicle to demonstrate to § 87(2)(b) that the vehicle's taillight was broken – she admittedly had no idea whether Det. Rosenberg actually searched the vehicle because she said she was not paying close attention to his actions at the time. § 87(2)(g)

§ 87(2)(g) § 87(2)(b) and § 87(2)(b) corroborated each other that PO Zuccaro looked under the vehicle seats and inside the glove compartment. Again, the auto workers also stated that the officers searched the vehicle. PO Zuccaro offered that he might have gone inside the vehicle to check the VIN number. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) and § 87(2)(b) were consistent that § 87(2)(b) requested Det. Rosenberg's shield number. § 87(2)(g) In his phone statement, however, § 87(2)(b) added that he had also requested Det. Rosenberg's name. In addition, while § 87(2)(b) alleged that Det. Rosenberg simply never provided his shield number, § 87(2)(b) said that Det. Rosenberg responded to the request by hiding his badge in his vest. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Determination of Fact

§ 87(2)(g)

Allegation A. Det. Craig Rosenberg stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.

Allegation B. PO Bryan Zuccaro stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.

§ 87(2)(g)

Allegation C. Det. Craig Rosenberg searched § 87(2)(b)

As mentioned above, the civilians were consistent that Det. Rosenberg searched § 87(2)(b). According to Patrol Guide Procedure 212-11 (encl. 1 A), an officer should conduct a search “if frisk reveals object which may be a weapon.” § 87(2)(g)

Allegation D. Det. Craig Rosenberg searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.

According to Kamins’ *Search and Seizure 2006* (encl. 2 A), “once the occupants are *outside* the car, New York courts will find that a search has been conducted when the officer ‘breaches the plane of the doorway’.” § 87(2)(g)

§ 87(2)(g)

Allegation E. PO Bryan Zuccaro searched § 87(2)(b)

§ 87(2)(g)

Allegation F. PO Bryan Zuccaro frisked § 87(2)(b)

§ 87(2)(g)

Patrol Guide Procedure 212-11 (encl. 1 A), states that absent issuing a summons, an officer should frisk a person if the officer “reasonably suspect[s] [that the officer] or others are in danger of physical injury.” § 87(2)(g)

Allegation G. PO Bryan Zuccaro searched the car in which § 87(2)(b) **and** § 87(2)(b) **were occupants.**

§ 87(2)(b) and § 87(2)(b) were consistent that PO Zuccaro searched under the vehicle seats and in the glove compartment. The auto worker witnesses corroborated that PO Zuccaro searched the vehicle. § 87(2)(g)

§ 87(2)(g) According to Kamins’ *Search and Seizure 2006* (encl. 2 A), “once the occupants are *outside* the car, New York courts will find that a search has been conducted when the officer ‘breaches the plane of the doorway’. Thus, a search is conducted when an officer... opens the door to check for a vehicle identification number.” In conjunction, PO Zuccaro volunteered that he may have very well looked inside the vehicle to check for the vehicle identification number. According to Kamins’ *Search and Seizure 2005* (encl. 0 A), an officer “cannot enter the vehicle to look for the VIN based solely on a stop for a traffic violation. If the officer, upon looking at the VIN from outside the vehicle, determines that it has been altered, he can enter the vehicle to look at the VINs in other strategic places.” § 87(2)(g)

According to Kamins’ *Search and Seizure 2006* (encl. 2 B), “the police may search a vehicle and any containers found inside when they have probable cause to believe that it contains contraband, a weapon, or evidence of a crime.” § 87(2)(g)

Allegation H. Det. Craig Rosenberg refused to provide his shield number to § 87(2)(b)

According to Patrol Guide Procedure 203-09 (encl. 3 A), an officer must “courteously and clearly state [their] rank, name, shield number and command, or otherwise provide them, to anyone who requests [them] to do so. Allow the person ample time to note this information.” § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: